

Adopted

Rejected

COMMITTEE REPORT

YES: 19

NO: 0

MR. SPEAKER:

Your Committee on Ways and Means, to which was referred Senate Bill 414, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 6-3.1-4-1 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]:
- 5 Sec. 1. ~~As used in this~~ **The following definitions apply throughout**
- 6 **this** chapter:
- 7 (1) **"Automotive electronics" involves the techniques and**
- 8 **equipment used to achieve automatic operation or control of**
- 9 **equipment, a process, or a system.**
- 10 (2) **"Base amount" means base amount (as defined in Section**
- 11 **41(c) of the Internal Revenue Code as in effect on January 1,**
- 12 **2001).**
- 13 (3) **"Base period Indiana qualified research expense" means base**
- 14 **period research expense that is incurred for research conducted in**
- 15 **Indiana.**

(4) "Base period research expense" means base period research expense (as defined in Section 41(c) of the Internal Revenue Code before January 1, 1990).

(5) "Indiana qualified research expense" means qualified research expense that is incurred for research conducted in Indiana.

(6) "Qualified advanced manufacturing company" means any business entity that:

(A) maintains one (1) or more manufacturing facilities in Indiana employing during each month of the taxpayer's taxable year at least two thousand five hundred (2,500)

employees in full-time employment positions that pay on average more than four hundred percent (400%) of the hourly minimum wage under IC 22-2-2-4 or its equivalent;

(B) is engaged primarily in the business of automotive electronics, aerospace, defense, robotics, or engineering design technology, manufacturing, or production; and

(C) has been designated as a qualified advanced manufacturing company by executive order of the governor.

(7) "Qualified research expense" means qualified research expense (as defined in Section 41(b) of the Internal Revenue Code as in effect on January 1, 2001).

(8) "Pass through entity" means:

(1) (A) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);

(2) (B) a partnership;

(3) (C) a limited liability company; or

(4) (D) a limited liability partnership.

(9) "Research expense tax credit" means a credit provided under this chapter against any tax otherwise due and payable under IC 6-3.

(10) "Taxpayer" means an individual, a corporation, a limited liability company, a limited liability partnership, a trust, or a partnership that has any tax liability under IC 6-3 (adjusted gross income tax).

SECTION 2. IC 6-3.1-4-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: **Sec 2.5. (a) A qualified**

advanced manufacturing company that incurs Indiana qualified research expense in a particular taxable year may elect to calculate the research expense tax credit under this section instead of under section 2 of this chapter.

(b) An election under this section applies to the taxable year for which the election is made and all succeeding taxable years unless the election is revoked with the consent of the department. An election must be made in the manner and on the form prescribed by the department.

(c) Except as provided in subsection (d), the credit is equal to one percent (1%) multiplied by:

(1) the taxpayer's Indiana qualified research expenses for the taxable year; minus

(2) fifty percent (50%) of the taxpayer's average Indiana qualified research expenses for the three (3) taxable years preceding the taxable year for which the credit is being determined.

(d) If the taxpayer does not have Indiana qualified research expenses in any one (1) of the three (3) taxable years preceding the taxable year for which the credit is being determined, the credit under this section is equal to one percent (1%) of the Indiana qualified research expenses for the taxable year."

Page 2, strike lines 5 through 10.

Page 2, line 11, strike "(4)" and insert "(2)".

Page 2, line 15, strike "(5)" and insert "(3)".

Page 3, line 5, strike "(6)" and insert "(4)".

Page 3, line 5, strike "two hundred (200)" and insert "seventy-five (75)".

Page 3, line 7, strike "(7)" and insert "(5)".

Page 3, line 13, strike "(8)" and insert "(6)".

Page 3, line 17, strike "(9)" and insert "(7)".

Page 3, line 20, strike "(10)" and insert "(8)".

Page 3, line 24, strike "(11)" and insert "(9)".

Page 3, line 26, strike "and fifty cents (\$1.50)" and insert "(\$1)".

Page 3, line 27, strike "three" and insert "two".

Page 3, line 28, strike "(\$3)" and insert "(\$2)".

Page 3, line 33, strike "(12)" and insert "(10)".

Page 4, line 32, strike "In the".

1 Page 4, strike line 33.

2 Page 4, line 34, delete "may".

3 Page 4, line 34, strike "consider the magnitude of the cost
4 differential between the".

5 Page 4, strike lines 35 through 36.

6 Page 4, between lines 36 and 37, begin a new paragraph and insert:

7 "SECTION 7. IC 6-3.1-13-19.5, AS AMENDED BY P.L.4-2005,
8 SECTION 77, IS AMENDED TO READ AS FOLLOWS
9 [EFFECTIVE JULY 1, 2005]: Sec. 19.5. (a) In the case of a credit
10 awarded for a project to retain existing jobs in Indiana, the corporation
11 shall enter into an agreement with an applicant that is awarded a credit
12 under this chapter. The agreement must include all of the following:

13 (1) A detailed description of the business that is the subject of the
14 agreement.

15 (2) The duration of the tax credit and the first taxable year for
16 which the credit may be claimed.

17 (3) The credit amount that will be allowed for each taxable year.

18 (4) A requirement that the applicant shall maintain operations at
19 the project location for at least two (2) times the number of years
20 as the term of the tax credit. An applicant is subject to an
21 assessment under section 22 of this chapter for noncompliance
22 with the requirement described in this subdivision.

23 (5) A requirement that the applicant shall annually report the
24 following to the corporation:

25 (A) The number of employees who are employed in Indiana by
26 the applicant.

27 (B) The compensation (including benefits) paid to the
28 applicant's employees in Indiana.

29 (C) The amount of the:

30 (i) facility improvements;

31 (ii) equipment and machinery upgrades, repairs, or retrofits;
32 or

33 (iii) other direct business related investments, including
34 training.

35 (6) A requirement that the applicant shall provide written
36 notification to the director and the corporation not more than thirty
37 (30) days after the applicant makes or receives a proposal that
38 would transfer the applicant's state tax liability obligations to a

1 successor taxpayer.

2 ~~(7) A requirement that the chief executive officer of the company~~
 3 ~~applying for a credit under this chapter must verify under penalty~~
 4 ~~of perjury that the disparity between projected costs of the~~
 5 ~~applicant's project in Indiana compared with the costs for the~~
 6 ~~project in a competing site is real and actual.~~

7 ~~(8)~~ (7) Any other performance conditions that the corporation
 8 determines are appropriate.

9 (b) An agreement between an applicant and the corporation must be
 10 submitted to the budget committee for review and must be approved by
 11 the budget agency before an applicant is awarded a credit under this
 12 chapter for a project to retain existing jobs in Indiana."

13 Page 5, between lines 34 and 35, begin a new paragraph and insert:

14 "SECTION 9. IC 6-3.1-13-26, AS AMENDED BY P.L.4-2005,
 15 SECTION 84, IS AMENDED TO READ AS FOLLOWS
 16 [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) The economic
 17 development for a growing economy fund is established to be used
 18 exclusively for the purposes of this chapter, ~~and~~ IC 6-3.1-26, ~~and~~
 19 **IC 6-3.1-26.2**, including paying for the costs of administering this
 20 chapter, ~~and~~ IC 6-3.1-26, ~~and~~ **IC 6-3.1-26.2**. The fund shall be
 21 administered by the corporation.

22 (b) The fund consists of collected fees, appropriations from the
 23 general assembly, and gifts and grants to the fund.

24 (c) The treasurer of state shall invest the money in the fund not
 25 currently needed to meet the obligations of the fund in the same manner
 26 as other public funds may be invested. Interest that accrues from these
 27 investments shall be deposited in the fund.

28 (d) The money in the fund at the end of a state fiscal year does not
 29 revert to the state general fund but remains in the fund to be used
 30 exclusively for the purposes of this chapter. Expenditures from the fund
 31 are subject to appropriation by the general assembly and approval by
 32 the budget agency."

33 Page 6, after line 40, begin a new paragraph and insert:

34 "SECTION 11. IC 6-3.1-26.2 IS ADDED TO THE INDIANA
 35 CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS
 36 [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]:

37 **Chapter 26.2. Advanced Manufacturing Investment and Job**
 38 **Retention Credits**

1 **Sec. 1. As used in this chapter, "advanced manufacturing jobs"**
 2 **means employment in automotive electronics (as defined in**
 3 **IC 6-3.1-4-1), aerospace, defense, robotics, or engineering design**
 4 **technology, manufacturing, or production that pays on average**
 5 **more than four hundred percent (400%) of the hourly minimum**
 6 **wage under IC 22-2-2-4 or its equivalent.**

7 **Sec. 2. (a) As used in this chapter, "certified advanced**
 8 **manufacturing investment" means the amount of a qualified**
 9 **advanced manufacturing company's expenditures for:**

10 **(1) the purchase of new manufacturing equipment and**
 11 **tooling;**

12 **(2) the purchase of new computers, software, and related**
 13 **equipment;**

14 **(3) costs associated with the modernization of existing**
 15 **manufacturing facilities;**

16 **(4) onsite infrastructure improvements;**

17 **(5) the construction of new manufacturing facilities;**

18 **(6) costs associated with retooling existing machinery and**
 19 **equipment; and**

20 **(7) costs associated with the construction of special purpose**
 21 **buildings and foundations for use in the advanced**
 22 **manufacturing sector;**

23 **that are certified by the IEDC as being eligible for the credit under**
 24 **this chapter.**

25 **(b) The term does not include expenditures made before**
 26 **January 1, 2005, or after December 31, 2009.**

27 **Sec. 3. As used in this chapter, "full-time employee" has the**
 28 **meaning set forth in IC 6-3.1-13-4.**

29 **Sec. 4. As used in this chapter, "IEDC" refers to the Indiana**
 30 **economic development corporation established by IC 5-28-3-1.**

31 **Sec. 5. As used in this chapter, "income tax withholdings"**
 32 **means the total amount withheld under IC 6-3-4-8 by the taxpayer**
 33 **during the taxable year from the compensation of employees.**

34 **Sec. 6. As used in this chapter, "qualified advanced**
 35 **manufacturing company" means a taxpayer that:**

36 **(1) maintains one (1) or more facilities in Indiana employing**
 37 **at least two thousand five hundred (2,500) full-time employees**
 38 **in advanced manufacturing jobs during each of the twelve**

(12) months preceding an application for a credit under this chapter; and

(2) has been designated as qualified by executive order of the governor.

Sec. 7. As used in this chapter, "qualified advanced manufacturing project" means a multiyear program of investment that:

(1) has a projected cost of at least seventy million dollars (\$70,000,000); and

(2) is undertaken by a qualified advanced manufacturing company at a location in Indiana for the purposes listed in section 2 of this chapter.

Sec. 8. As used in this chapter, "state tax liability" means a taxpayer's total tax liability incurred under IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax), as computed after the application of all credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 9. As used in this chapter, "taxpayer" means an individual, a corporation, a partnership, or other entity that has state tax liability.

Sec. 10. The IEDC may make credit awards under this chapter to encourage advanced manufacturing investment and to foster expansion and retention of advanced manufacturing jobs in Indiana.

Sec. 11. A taxpayer that:

(1) is awarded a tax credit under this chapter by the IEDC; and

(2) complies with the conditions set forth in this chapter and the agreement entered into with the IEDC under this chapter; is entitled to apply the credit against the taxpayer's state tax liability in a taxable year.

Sec. 12. (a) A qualified advanced manufacturing company is entitled to a credit against the taxpayer's state tax liability for a taxable year if the taxpayer makes a certified advanced manufacturing investment in a qualified advanced manufacturing project during that year.

(b) The amount of the credit to which a taxpayer is entitled is the certified advanced manufacturing investment made by the

1 taxpayer during the taxable year multiplied by one percent (1%).

2 (c) A taxpayer may carry forward an unused credit under this
3 section for not more than three (3) consecutive taxable years
4 beginning with the taxable year after the taxable year in which the
5 taxpayer makes the certified advanced manufacturing investment.

6 (d) A taxpayer may carry forward a remainder for one (1) or
7 more different certified advanced manufacturing investments in
8 the same taxable year.

9 Sec. 13. (a) A qualified advanced manufacturing company that
10 proposes a qualified advanced manufacturing project may claim a
11 job retention tax credit under this section equal to one percent
12 (1%) of the taxpayer's income tax withholdings attributable to
13 full-time employees working in advanced manufacturing jobs at the
14 qualified advanced manufacturing project site.

15 (b) The duration of the tax credit shall be based on the number
16 of full-time advanced manufacturing jobs maintained at the
17 qualified advanced manufacturing project site during the term of
18 the credit, and shall be determined as follows:

19 (1) A credit shall be awarded for five (5) consecutive taxable
20 years to a taxpayer that maintains at least two thousand five
21 hundred (2,500) advanced manufacturing jobs at the qualified
22 advanced manufacturing project site.

23 (2) A credit shall be awarded for four (4) consecutive taxable
24 years to a taxpayer that maintains at least two thousand two
25 hundred fifty (2,250) but less than two thousand five hundred
26 (2,500) advanced manufacturing jobs at the qualified
27 advanced manufacturing project site.

28 (3) A credit shall be awarded for three (3) consecutive taxable
29 years to a taxpayer that maintains at least two thousand
30 (2,000) but less than two thousand two hundred fifty (2,250)
31 advanced manufacturing jobs at the qualified advanced
32 manufacturing project site.

33 (c) If during the term of the credit the number of employees
34 drops below the amount required in subsection (b)(1), (b)(2), or
35 (b)(3), the duration of the credit shall be adjusted accordingly.

36 (d) The credit amount claimed for a taxable year under this
37 section may exceed the taxpayer's state tax liability for the taxable
38 year, in which case the excess shall be refunded to the taxpayer.

1 **Sec. 14. (a) A qualified advanced manufacturing company may**
2 **apply to the IEDC to enter into an agreement for a tax credit**
3 **under:**

- 4 (1) section 12 of this chapter;
5 (2) section 13 of this chapter; or
6 (3) both sections 12 and 13 of this chapter.

7 **(b) The IEDC shall prescribe the form of the application.**

8 **Sec. 15. After receipt of an application, the IEDC may enter into**
9 **an agreement with the applicant for a tax credit under section 12**
10 **or 13 of this chapter, or both, if the IEDC determines that all the**
11 **following conditions exist:**

12 (1) The taxpayer has prepared a plan for the use of credits
13 under this chapter for a qualified advanced manufacturing
14 project.

15 (2) The qualified advanced manufacturing project will result
16 in the growth or retention of full-time advanced
17 manufacturing jobs in Indiana.

18 (3) The qualified advanced manufacturing project is
19 economically sound and will benefit the citizens of Indiana by
20 strengthening the economy of Indiana.

21 (4) Receiving the tax credit is a major factor in the taxpayer's
22 decision to go forward with the qualified advanced
23 manufacturing project.

24 (5) The average wage that will be paid by the taxpayer to its
25 employees at the site of the qualified advanced manufacturing
26 project after the credit is given will be at least equal to four
27 hundred percent (400%) of the hourly minimum wage under
28 IC 22-2-2-4 or its equivalent.

29 (6) The total cost of the qualified advanced manufacturing
30 project will be at least seventy million dollars (\$70,000,000).

31 (7) The qualified advanced manufacturing project will be
32 completed within five (5) consecutive years, including the first
33 year for which the credit is granted.

34 (8) One (1) or more political subdivisions in which the
35 qualified advanced manufacturing project is located have
36 agreed to provide substantial financial support to the qualified
37 advanced manufacturing project.

38 **Sec. 16. The IEDC shall enter into an agreement with an**

1 applicant that is awarded a credit under this chapter. The
2 agreement must include all the following:

3 (1) A detailed description of the qualified advanced
4 manufacturing project that is the subject of the agreement.

5 (2) The first taxable year for which the credit may be claimed.

6 (3) The amount of the taxpayer's state tax liability in the
7 taxable year that immediately preceded the first taxable year
8 in which the credit may be claimed.

9 (4) The maximum tax credit amount that will be allowed for
10 each taxable year.

11 (5) A requirement that the taxpayer shall maintain operations
12 at the qualified advanced manufacturing project site for at
13 least ten (10) years, including the term of the tax credit.

14 (6) A requirement that the taxpayer shall pay an average wage
15 to its advanced manufacturing employees at the qualified
16 advanced manufacturing project site in each taxable year that
17 a tax credit is available that equals at least four hundred
18 percent (400%) of the hourly minimum wage under
19 IC 22-2-2-4 or its equivalent.

20 (7) A requirement that the taxpayer make at least seventy
21 million dollars (\$70,000,000) in certified advanced
22 manufacturing investment at the qualified advanced
23 manufacturing project site before December 31, 2009.

24 (8) For a taxpayer awarded a certified advanced
25 manufacturing investment credit under section 12 of this
26 chapter, a requirement that the taxpayer maintain at least two
27 thousand five hundred (2,500) full-time employees in
28 advanced manufacturing jobs in Indiana during the term of
29 the tax credit.

30 (9) For a taxpayer awarded an advanced manufacturing jobs
31 retention credit under section 13 of this chapter, a
32 requirement that the taxpayer maintain:

33 (A) at least two thousand five hundred (2,500) advanced
34 manufacturing jobs at the qualified advanced
35 manufacturing project site during the term of the credit if
36 the credit is awarded for five (5) years;

37 (B) at least two thousand two hundred fifty (2,250)
38 advanced manufacturing jobs at the qualified advanced

1 manufacturing project site during the term of the credit if
 2 the credit is awarded for four (4) years; or
 3 (C) at least two thousand (2,000) advanced manufacturing
 4 jobs at the qualified advanced manufacturing project site
 5 during the term of the credit if the credit is awarded for
 6 three (3) years; and
 7 a requirement that the taxpayer maintain at least two
 8 thousand (2,000) advanced manufacturing jobs at the
 9 qualified advanced manufacturing project site for at least ten
 10 (10) years, including the term of the tax credit.
 11 (10) Any other performance conditions that the IEDC
 12 determines are appropriate.

13 Sec. 17. (a) If the IEDC determines that a taxpayer that has
 14 received a credit under this chapter is not complying with the
 15 requirements of the tax credit agreement or all the provisions of
 16 this chapter, the IEDC shall, after giving the taxpayer an
 17 opportunity to explain the noncompliance, notify the department
 18 of state revenue of the noncompliance and request an assessment.

19 (b) The department of state revenue, with the assistance of the
 20 IEDC, shall state the amount of the assessment, which may not
 21 exceed the sum of:

- 22 (1) fifty percent (50%) of any credits previously awarded
- 23 under section 12 of this chapter; and
- 24 (2) one hundred percent (100%) of any credits previously
- 25 awarded under section 13 of this chapter.

26 (c) After receiving the notice, the department of state revenue
 27 shall make an assessment against the taxpayer under IC 6-8.1.

28 Sec. 18. Notwithstanding the other provisions of this chapter, a
 29 taxpayer is not entitled to a credit for a certified advanced
 30 manufacturing investment made after December 31, 2009.
 31 However, this section may not be construed to prevent a taxpayer
 32 from carrying an unused tax credit attributable to a certified
 33 advanced manufacturing investment made before January 1, 2010,
 34 forward to a taxable year beginning after December 31, 2009, in
 35 the manner provided by section 12 of this chapter.

36 SECTION 12. [EFFECTIVE JANUARY 1, 2005
 37 (RETROACTIVE)] IC 6-3.1-4-1, as amended by this act, and
 38 IC 6-3.1-4-2.5 and IC 6-3.1-26.2, both as added by this act, apply

- 1 **only to taxable years beginning after December 31, 2004.**
- 2 SECTION 13. **An emergency is declared for this act."**
- 3 Renumber all SECTIONS consecutively.
 (Reference is to SB 414 as printed February 25, 2005.)

and when so amended that said bill do pass.

Representative Espich